

UNITED STATES DISTRICT COURT FOR  
THE SOUTHERN DISTRICT OF NEW YORK

HILDA L. SOLIS, Secretary of Labor,  
United States Department of Labor

Plaintiff,

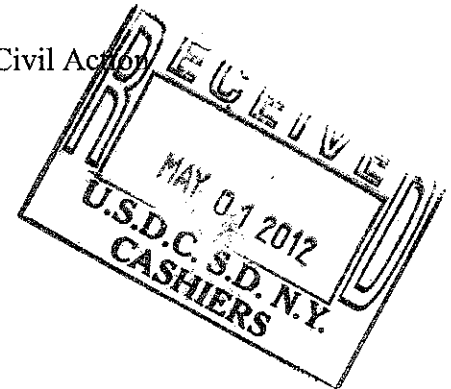
v.

SAL 79 ASSOCIATES INC., SALVATORE'S CORP.,  
and COPPOLA'S TUSCAN GRILL LLC, and  
SALVATORE COPPOLA, Individually and as Owner

Defendant

COMPLAINT

Civil Action



Plaintiff, HILDA L. SOLIS, Secretary of Labor, United States Department of Labor, brings this action under Sections 16(c) and 17 of the Fair Labor Standards Act of 1938, as amended, (29 U.S.C. §201, et seq.), ("the Act"), alleging that defendants violated sections 6, 7, 11(c), 15(a)(2), and 15(a)(5) of the Act.

I.

Jurisdiction of this action is conferred upon the Court by Section 17 of the Act and 28 U.S.C. Sections 1331 and 1345.

II.

Defendant SAL 79 ASSOCIATES INC. is a corporation doing business at Coppola's Restaurant West, 206 West 79<sup>th</sup> Street, New York New York 10024, within the jurisdiction of this Court, where defendant is engaged in the restaurant business.

III.

Defendant SALVATORE'S CORP. is a corporation doing business at Coppola's Restaurant East, 387 Third Avenue, New York New York 10006, within the jurisdiction of this Court, where defendant is engaged in the restaurant business.

IV.

Defendant COPPOLA'S TUSCAN GRILL LLC is a corporation doing business at 500 Route 340, Sparkill New York 10976, within the jurisdiction of this Court, where defendant is engaged in the restaurant business.

V.

Defendant corporations regulate the employment of all persons they employ, act directly and indirectly in the corporations' interest in relation to the employees, and thus are an employer of the employees within the meaning of section 3(d) of the Act.

VI.

Defendant SALVATORE COPPOLA who does business at 206 West 79<sup>th</sup> Street, New York New York 10024, 378 Third Avenue, New York New York 10006 and 500 Route 340, Sparkill New York 10976 within the jurisdiction of this court, is an officer of defendant corporations, in active control and management of defendant corporations, regulates the employment of persons employed by defendant corporations, acts directly and indirectly in the interest of defendant corporations in relation to the employees, and is thus an employer of the employees within the meaning of section 3(d) of the Act.

## VII.

The business activities of the defendants are related and performed through unified operation or common control for a common business purpose and constitute an enterprise within the meaning of section 3(r) of the Act.

## VIII.

Defendants employ employees at their places of business in the activities of an enterprise engaged in commerce or in the production of goods for commerce, including employees handling, selling, or otherwise working on goods or materials that have been moved in or produced for commerce. The enterprise has an annual gross volume of sales made or business done in an amount not less than \$500,000.00. Therefore, the employees are employed in an enterprise engaged in commerce or in the production of goods for commerce within the meaning of section 3(s) (1)(A) of the Act.

## IX.

Defendants in many workweeks have violated the provisions of sections 6 and 15(a)(2) of the Act by employing many of their employees at rates less than those which are applicable under Section 6 of the Act. Therefore, defendants are liable for unpaid minimum wage compensation and an amount of liquidated damages under Section 16(c) of the Act.

## X.

Defendants in many workweeks willfully and repeatedly have violated the provisions of sections 7 and 15(a)(2) of the Act by employing many of their employees

employed in an enterprise engaged in commerce or in the production of goods for commerce, for workweeks longer than those prescribed in section 7 of the Act without compensating the employees for their employment in excess of the prescribed hours at rates not less than one and one-half times the regular rates at which they were employed. Therefore, defendants are liable for unpaid overtime compensation and an amount in liquidated damages under section 16(c) of the Act.

#### XI.

Defendants in many workweeks willfully and repeatedly, have violated the provisions of sections 11(c) and 15(a)(5) of the Act, in that defendants failed to make, keep, and preserve adequate and accurate records of their employees and of the wages, hours, and other conditions of employment which it maintained as prescribed by the Regulations issued and found at 29 CFR Part 516; more specifically, the records kept by the defendants failed to show adequately and accurately, among other things, the hours worked each workday, the total hours worked each workweek, the regular rate of pay, the total earnings for each workweek, and/or the total overtime compensation for each workweek, with respect to many of their employees.

#### XII.

Defendants since March 9, 2008, willfully and repeatedly have violated the provisions of the Act as alleged above.

WHEREFORE, cause having been shown, plaintiff prays for judgment against defendants providing the following relief:

- (1) For an injunction issued pursuant to section 17 of the Act permanently

restraining defendants, their officers, agents, employees, and those persons in active concert or participation with defendants, from violating the provisions of sections 6, 7, 11(c), 15(a)(2), and 15(a)(5) of the Act; and

(2) For an order pursuant to section 16(c) of the Act finding defendant liable for unpaid minimum wage and overtime compensation found due defendant's employees listed on the attached Exhibit A and an amount of liquidated damages; and,

(3) For an order granting such other and further relief as may be necessary and appropriate.

DATED: April <sup>30</sup>, 2012  
New York, New York

S/M. Patricia Smith

M. PATRICIA SMITH  
Solicitor of Labor

S/Patricia M. Rodenhausen

PATRICIA M. RODENHAUSEN  
Regional Solicitor

S/John G. Campbell

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## EXHIBIT A

### Coppola's Sparkill

Edgar Ayala  
Rafael Chavez  
Erik D. Conetta  
Jenette Crowe  
Carlos Diaz-Hernandez  
Juan Gomez  
Michael Machado  
Edwin S. Mancia  
Jonathan Monje  
Carlos E. Ramirez  
Jordan Saltzbers  
Sergio Tejas  
Michael Vasti  
Reymundo Zetrino

### Coppola's West

Edgar Ayala  
Maria F. Batista  
Pedro L. Benitez  
Radu Borza  
Adriana Bran  
Leonadas Cabrera  
Mitchel Colucci  
David Cregan  
Anthony Elizondo  
Agustin Flores  
Jacqueline Galerne  
Agnieszka Gaslor  
Francisco Gomez  
Juan Gomez  
Volha Holik  
Silviya Lukanova  
Luis H. Macancela  
Goran Milutinovic  
Luis Minchala  
Flaviu Nasarimba  
Natalie Nunez  
Carlos Omar  
Marian Quatu

Placido G. Valdez  
Ciprian Varbanclu  
Sergio A. Vega

Coppola's East

Louis B. Aguaiza  
Miguel Anguisaca  
Bruno Caraballo  
Francisco Gonzalez  
Luis Gualpa  
Danielle Harley  
Carlos Herrera  
Jaime Herrera  
Guillermo Juarez  
Aaron Kropf  
Jose Luis  
Florent Maliqi  
Juan C. Martinez  
John Mduro Palomeque  
Andres Mejia Sanchez  
Albino Melendez  
Luis Mendieta  
Javier Miranda Saldivar  
Agon Pireva  
Gjek Plumaj  
Sergio Rodriguez  
Macario Rojas  
Tanush Sejdiu  
Ivan Tapia  
Julio Tellez